

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of | § | |
| | § | GN Docket No. 12-353 |
| AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition | § | |
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| Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution | § | |
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| | § | |
| Policies and Rules Governing Retirement of Copper Loops By Incumbent Local Exchange Carriers | § | RM-11358 |
| | § | |

COMMENTS OF TEXALTEL

TEXALTEL is a trade association of competitive telecommunications providers that do business in Texas. TEXALTEL thanks the Commission for this opportunity to offer its comments in support of the Request to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband over Copper (“the Request to Refresh the Record”) filed in these proceedings on January 25, 2013 by Mpower Communications Corp., and U.S. TelePacific Corp. (together “TelePacific”); ACN Communications Services, Inc.; Level 3 Communications LLC; TDS Metrocom, LLC and Telecommunications for the Deaf and hard of Hearing, Inc. (“The Petitioners”).

COMMENTS

TEXALTEL joins the Petitioners in urging the Commission to Refresh the Record and Take Expedited Action to Update Copper Retirement Rules. First, TEXALTEL applauds the

Commission's quick response to gather information on the critical and timely issue of copper retirement. Verizon's announcement of its plan to abandon copper in several wire centers in the wake of Hurricane Sandy and AT&T's Petition Launch a Proceeding Concerning the TDM-to-IP Transition¹ indicate that not only is the issue of copper retirement ripe, but that it remains crucial for the continued stability of the entire competitive telecommunications market.

I. Copper continues to be an important piece of the ever evolving national telecommunications infrastructure.

The incumbent local exchange carriers ("ILECs") would have the Commission believe there are two separate and distinct networks and to get the newer, faster, IP network it must first rip out the old, slower, outdated copper. The reality is, as TEXALTEL has previously pointed out in its comments on the AT&T Petition, the network has been in a constant state of evolution since its inception. New, flexible competitors enter the market and bring innovative technologies that push the network toward greater efficiency at lower costs and therefore, lower prices.¹ This was the case when MCI entered market for long distance service, it was the case when Covad Communications brought DSL service to the market in the 1990s, and it continues to be the case as competitive local exchange carriers ("CLECs") maximize the existing copper infrastructure with innovative broadband products such as Ethernet over Copper ("EoC").

In 2012 a leading market research and consulting firm, Vertical Systems, reported that, as of 2011, nearly 70% of U.S. commercial buildings fell into the "fiber gap"; i.e., they lacked

¹ *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution*; GN Docket No. 12-353 (Comments of TEXALTEL)

access to fiber.² EoC is a bridge spanning that gap as innovative companies – including CLECs - leverage old copper with new technology to bring customers broadband speeds from 3 to 50 Mbps. In addition, even where fiber and copper are available, copper can fill an “economic gap” by allowing competitors to provide competing broadband services at lower prices than the ILEC offers over its (monopoly) fiber. TEXATEL recently conducted a survey of six CLECs providing EoC services in Texas. The results showed that CLECs were providing EoC services to small and mid-sized businesses in over 130 wire centers in Texas and have the potential to reach over 400,000 Texas businesses. In over half of these wire centers, customers have more than one competitive option for EoC, not counting the ILEC. The majority of those wire centers were located in and around the larger cities of Dallas, Houston, Austin and San Antonio. However, the study also showed that EoC helps smaller cities and rural areas bridge the digital divide. Specifically, TEXATEL’s study showed EoC being deployed in Corpus Christi and areas of the Rio Grande Valley, including Laredo and McAllen, which have historically suffered the technology lag common in rural Texas.

While EoC has been primarily deployed by CLECs, ILECs are embracing the technology as well. Consolidated Communications recently announced that EoC has reinvigorated its Pittsburgh market, allowing it to “layer on user driven services”, to the point that it is now taking its EoC product to California and plans to implement EoC in existing copper infrastructure while only building fiber in Greenfield builds.³

² *Access to Business Fiber Continues to Climb in Europe & U.S.*; Vertical Systems Group (March 2012): New deployments boost availability of fiber access to business services, however more than one million commercial buildings remain in the "Fiber Gap". <http://www.verticalsystems.com/prarticles/stat-fiber-penetration-us-eu-3-2012.html>

³ Sean Buckley, *Consolidated Ramps up its Business Services Strategies with Ethernet* (2013) Fierce Telecom <http://www.fiercetelecom.com/story/consolidated-ramps-its-business-services-strategy-ethernet/2013-02-14>

II. Stable Wholesale Environment and Access to Last Mile is Crucial

One of the most fundamental drivers of a vibrant competitive retail market in the telecommunications industry is strong and stable wholesale regulation. Under today's copper retirement rules, the ILECs are only required to provide notice to carriers before any copper facilities are retired and the only redress CLECs have is to file a petition with the Commission which is deemed denied if the Commission fails to act. Additionally, since the Commission has yet to rule definitively on IP Interconnection, under today's rules, ILECs could implement (and Verizon and AT&T are threatening) wide scale copper retirement of loops leased by CLECs and in service to customers, leaving CLECs without access to last mile facilities for their existing customers.

This lack of regulatory certainty and the unstable wholesale environment significantly impact the CLECs' ability to raise crucial capital investments that continue to spur innovation and technological development. It is clear that ILECs still have a long way to go before they have fiber availability to even half of the U.S. businesses. The industry needs CLECs driving innovation and reaching out to those in the fiber gap, leveraging the existing copper infrastructure, with high speed broadband offerings at lower prices than fiber.

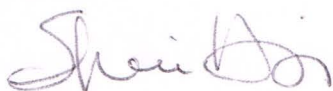
III. Copper Retirement Rules Must Be Revisited

There are numerous proceedings before the Commission that must be addressed before copper infrastructure can be retired. Because of these open issues, the Commission must act now to preserve copper loops and CLEC's access to copper. If ILECs wish to "retire" copper from their own service and network offerings before such time that a functional fiber equivalent is

available to competitors, they must be required to leave the copper in place and continue to allow CLECs access under current terms and conditions.

TEXALTEL appreciates the opportunity to provide comments to the Commission in this proceeding.

Respectfully submitted;

A handwritten signature in purple ink, appearing to read "Sheri Hicks".

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Submitted: March 5, 2013